

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**In Re:**

**Case No: 19-80539-BPC**

**David Garcia**

**Chapter: 7**

*aka* David P. Garcia

*aka* David Pedro Garcia

*dba* NATIONAL HOUSING PRESERVATION  
ADVISORS, LLC. (JULY 2017 - PRESENT)

*dba* NHPA DEVELOPMENT, LLC (JUNE 2018  
- PRESENT)

*dba* AFFORDABLE HOUSING/ REAL  
ESTATE DEVELOPMENT

*dba* CAMBRIDGE HOUSING PARTNERS,  
LLC. (APRIL/MAY 2013 - PRESENT)

**Debtor**

PURSUANT TO LOCAL RULE 4001-1, THIS MOTION WILL BE TAKEN UNDER ADVISEMENT BY THE COURT AND MAY BE GRANTED UNLESS A PARTY IN INTEREST FILES A RESPONSE WITHIN 21 DAYS OF THE DATE OF SERVICE. RESPONSES MUST BE SERVED UPON THE MOVING PARTY AND, IN THE MANNER DIRECTED BY LOCAL RULE 5005-1, FILED WITH THE CLERK ELECTRONICALLY OR BY U.S. MAIL ADDRESSED AS FOLLOWS: CLERK, U.S. BANKRUPTCY COURT, ONE CHURCH STREET, MONTGOMERY, AL 36104.

**MOTION FOR RELIEF FROM AUTOMATIC STAY**  
**FILED BY NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER AS SERVICER**  
**FOR U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR STRUCTURED**  
**ADJUSTABLE RATE MORTGAGE LOAN TRUST, MORTGAGE PASS-THROUGH**  
**CERTIFICATES, SERIES 2005-23**

Comes now NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER AS SERVICER FOR U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR STRUCTURED ADJUSTABLE RATE MORTGAGE LOAN TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-23, its principals, investors, successors, and/or assigns, if any, (hereinafter "Creditor"), by and through its undersigned counsel of record, Sirote & Permutt,

P.C., and moves this Honorable Court to lift the automatic stay in the above-referenced Debtors' Chapter 7 bankruptcy and in support thereof, the Creditor avers as follows:

1. This Debtor filed their bankruptcy petition with this Court on 04/04/2019.
2. This Honorable Court has jurisdiction to hear these matters and enter final orders pursuant to 28 U.S.C. §§ 157 and 1334; and 11 U.S.C. § 362. The Motion for Relief from Automatic Stay constitutes a core proceeding and is a contested matter pursuant to Fed. R. Bankr. P. 4001(a) and 9014.
3. The Creditor holds a mortgage lien on the property commonly referred to as 7844 Lakeridge Dr, Montgomery, AL 36117-5186, and more fully described in the mortgage and note.
4. Attached are redacted copies of any documents that support the claim, such as promissory note, purchase order, invoices, itemized statements of running accounts, contracts, judgements, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.
5. According to the Debtor's Statement of Intentions, the property is to be surrendered.
6. The Debtor is in pre-petition and post-petition default.
7. The Creditor requests relief from the automatic stay for cause pursuant to 11 U.S.C. § 362(d)(1) with respect to the property on the grounds that the Debtor has failed to perform his/her/their statutory duties in accordance with 11 U.S.C. § 521(a)(2)(A) or (B).
8. The Creditor is not adequately protected.
9. The Creditor desires to protect its interests and proceed with taking possession of the property and to liquidate its collateral in accordance and under the state law rights and remedies.

**WAIVER OF FED. R. BANKR. P. 4001(a)(3)**

10. This is a Chapter 7 bankruptcy case. The Debtor either know, should know, or have been informed by Debtors' Counsel of the rules of this Bankruptcy Court and the potential penalties for non-compliance. Therefore, the Creditor requests this court waive the fourteen day "stay" in accordance with Fed. R. Bankr. P. 4001(a)(3).

**ATTORNEY FEES**


11. The Creditor has had to incur additional expense in order to collect this post-petition debt in the form of attorney fees in the amount of \$750.00 and costs in the amount of \$181.00 and requests this Court to award the Creditor reasonable attorney fees and court costs associated with this matter.

**WHEREFORE, ABOVE PREMISES CONSIDERED**, the Creditor herein prays that this Honorable Court will lift, modify, or terminate the automatic stay now in force and effect in order that the Creditor may obtain possession of its collateral and may enforce any and all of its state law rights and remedies in and to the subject collateral. The Creditor further requests that this Court waive the effect of Fed R. Bankr. P 4001(a)(3).

Respectfully submitted,

/s/ Stephen Bulgarella

Stephen Bulgarella (BUL-021)

✓ Enslen Crowe (CRO-098) 

Diane C. Murray (MUR-048)

Donald M. Wright (WRI-021)

Attorney for Creditor

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I hereby certify in accordance with Fed. R. Bankr. P. 4001(a), 9014, and 7004 that a copy of the above and foregoing pleading was mailed, first class postage prepaid to the following:

David Garcia  
743 Oakdale Drive  
Auburn, AL 36830

and served via electronic case management to:

Mary Conner Pool  
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Montgomery, AL 36103  
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Cecil M. Tipton Jr.  
Ray & Tipton  
606 Avenue A  
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On this the 14<sup>th</sup> day of May, 2019.

/s/ Stephen Bulgarella  
OF COUNSEL